UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,735	02/26/2004	Iulian Cioanta	ACMI-2.029.US	6101

22874 7590 10/14/2005

GANZ LAW, P.C.
P O BOX 2200
HILLSBORO, OR 97123

EXAMINER	
GIBSON, ROY DEAN	

ART UNIT	PAPER NUMBER
3739	

DATE MAILED: 10/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/788,735	CIOANTA ET AL.	
	Examiner	Art Unit	
	Roy D. Gibson	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 July 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-43* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-23 and 30-43* is/are allowed.

6)☐ Claim(s) *24,25 and 27* is/are rejected.

7)☐ Claim(s) *26,28 and 29* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2/26 and 7/29/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 40 is objected to because of the following informalities: in line 1, "crest" is assumed to be "crust". Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 24, 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Diederich et al. (6,746,465).

As to claim 24, Diederich et al. disclose a system comprising:

a treatment catheter (Figure 3, # 10) having a circulating liquid inlet channel (30) and a circulating liquid outlet channel (38), and an expandable treatment balloon (20) in fluid communication with the circulating inlet and outlet channels;

a pump (not shown) operably associated with the treatment catheter;

a heater (not shown) operably associated with the treatment catheter;

at least one temperature sensor (22) operably associated with the treatment catheter and the heater;

a pressure sensor operably associated with the treatment catheter;

a pressure adjustment device (valves) operably associated with the pressure sensor and the treatment catheter;

a closed loop liquid circulation path adapted to circulate a quantity of liquid therein, the path including the treatment catheter inlet and outlet channels and the treatment balloon, wherein the pressure adjustment device is operably associated with the liquid circulation path; and

a controller (inherent in the functions disclosed) operably associated with the pump, heater, temperature sensor, pressure sensor, and pressure adjustment device, the controller having computer program code (inherent in the functions disclosed) for:

(a) activating the pump, the heater, the temperature sensor, the pressure sensor and the pressure adjustment device to substantially continuously circulate heated liquid through the liquid circulation path; and

(b) automatically adjusting the pressure in the liquid circulation path to compensate for operational pressure losses over a time of at least about 15 minutes (determinable by simple experimentation based on the temperature of the circulating fluid) in the treatment system and to account for physiological changes in the tissue proximate the targeted treatment region so that the system maintains at least one selected operating pressure during administration of the thermal therapy (col. 1, lines 52-col. 2, line 30, col. 8, lines 9-67 and col. 10, lines 1-61).

As to claims 25 and 27, Diederich et al. further disclose adjusting the operational pressure in the liquid system to a predetermined constant pressure with dynamic control during the treatment (col. 8, lines 9-15 and col. 10, lines 57-61).

Allowable Subject Matter

Claims 1-23, 30-39 and 40-43 are allowed, with the typographical correction of claim 40.

Claims 26, 28 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Marko et al. (6,443,947) disclose most elements of the claimed invention, but the fluid passes from a proximal balloon (26) to a distal balloon (14), however, when the distal balloon is inflated to fill the uterine cavity, the fluid stops is circulation and the pressure in the distal balloon is maintained automatically; Saadat et al. (5,954,714) disclose circulating within the balloon, but does measure pressure; and Wallsten et al. (5,693,080) discloses a means of automatic pressure control.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on M-F, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Roy D. Gibson
Primary Examiner
Art Unit 3739

September 27, 2005